

2013 DRAFTING REQUEST

Assembly Amendment (AA-AB203)

Received: 9/12/2013 Received By: phurley
Wanted: As time permits Same as LRB:
For: Tyler August (608) 266-1190 By/Representing: Luke
May Contact: Drafter: phurley
Subject: Criminal Law - miscellaneous Addl. Drafters:
Extra Copies:

Submit via email: YES
Requester's email: Rep.August@legis.wisconsin.gov
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Drones

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	phurley 9/16/2013	jdye 9/17/2013	jfrantze 9/17/2013	_____	sbasford 9/17/2013	sbasford 9/17/2013	

FE Sent For:

<END>

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/1	phurley	1 9/17 jld	76	9/17			

FE Sent For:

<END>

Hurley, Peggy

From: Bacher, Luke
Sent: Monday, September 16, 2013 9:39 AM
To: Hurley, Peggy
Subject: RE: Substitute Amendment Request - AB 203

Place is fine.

Luke Bacher
Office of State Representative Tyler August
luke.bacher@legis.wi.gov
608-266-1190
<http://repaugust.com>

From: Hurley, Peggy
Sent: Monday, September 16, 2013 9:34 AM
To: Bacher, Luke
Subject: RE: Substitute Amendment Request - AB 203

I'll do that, then. One last thing, and I do apologize for not seeing this one earlier. I can change the draft to allow law enforcement agencies to use their drones in any public place (the phrase "public space" isn't used in the statutes, but "public place" is). Is "public space" supposed to mean something different from "public place?" If so, I think it should be a defined term.

If not, then use of a drone in a public place is another exemption to the general prohibition in s. 175.55 (2), and I think it should be drafted along with the other exemptions ("This section does not apply to the use of a drone in a public place or to assist in an active search and rescue operation"). Your thoughts?

Peggy

From: Bacher, Luke
Sent: Monday, September 16, 2013 9:29 AM
To: Hurley, Peggy
Subject: RE: Substitute Amendment Request - AB 203

Ok, that should work.

Luke Bacher
Office of State Representative Tyler August
luke.bacher@legis.wi.gov
608-266-1190
<http://repaugust.com>

From: Hurley, Peggy
Sent: Monday, September 16, 2013 9:17 AM
To: Bacher, Luke
Subject: RE: Substitute Amendment Request - AB 203

Hi Luke,

I will draft this as a simple amendment, then.

With regard to the military exemption, I think it would be a good idea to add language to s. 941.292 (2) to make the exemption explicit.

I am concerned about the proposed language, though, because you want to amend the bill so that 941.292 (2) says simply "Whoever operates any weaponized drone is guilty of a Class H felony." I think that if the exemption for military personnel mentions the "transport, possession, use, or transfer" of any weaponized drone, it could confuse the issue of whether "operating" a drone includes those terms.

I suggest changing the section to prohibit operating a drone, but then adding that this section does not apply to a member of the armed forces or the national guard who is acting in his or her official capacity. Does that work?

Peggy

From: Bacher, Luke
Sent: Monday, September 16, 2013 9:05 AM
To: Hurley, Peggy
Subject: RE: Substitute Amendment Request - AB 203

That's fine.

Luke Bacher
Office of State Representative Tyler August
luke.bacher@legis.wi.gov
608-266-1190
<http://repaugust.com>

From: Hurley, Peggy
Sent: Thursday, September 12, 2013 5:15 PM
To: Bacher, Luke
Subject: RE: Substitute Amendment Request - AB 203

Sure. I'll enter the request today and get the amendment to you as quickly as possible. Does it need to be a sub, or would a simple amendment do?

Peggy

From: Bacher, Luke
Sent: Thursday, September 12, 2013 4:47 PM
To: Hurley, Peggy
Cc: Bacher, Luke
Subject: Substitute Amendment Request - AB 203

Peggy –

Rep. August would like a Sub for AB 203 incorporating the changes listed below.

Please let me know if you have any questions.

Sincerely,
Luke

Luke Bacher
Office of State Representative Tyler August
luke.bacher@legis.wi.gov
608-266-1190
<http://repaugust.com>

CHANGES TO DRONE LEGISLATION – suggested language additions are in **bold**.

1. Page 3, Sec. 2, sub. 2, lines 1-3: "No Wisconsin law enforcement agency may use a drone to gather evidence or other information in a criminal investigation without first obtaining a search warrant under s. 968.12, **unless in a public space.**"

This is meant to address DOJ and the University of Wisconsin's concerns – it would allow the operation in public space.

2. Page 3, Sec. 3, sub. 2, line 13: "Whoever operates any weaponized drone is guilty of a Class H Felony." The words: "sells," "transports," "manufactures," and "possesses" have been removed.

This would address the issue of allowing a drone manufacturer operate in Wisconsin. They could possess, manufacture, etc but just could not OPERATE/FLY a drone (unless on Federal land).

3. Should there be an intent requirement added similar to the intent requirement in the federal statute?

Yes. Page 3, sec. 4, lines 16-18: "Whoever uses a drone...**with intent** to photograph, record or otherwise observe another individual in a place **or location** where the individual has a reasonable expectation of privacy is guilty of a class A misdemeanor."

This is aimed to address the concerns of the Hobbyists and model airplane groups. It states you must have the intent to view someone. So, if you were flying over your house to take a photo of

your house but accidentally viewed your neighbor, you'd be fine as long as you didn't intend to observe them.

4. Deleted "recording device, as defined in s 943.49(1)(c)"

Changed to "device that, in analog, digital, or other form, gathers, records, or transmits a sound or image."

This is meant to expand the recording device definition to not only recording but also transmitting an image (this would include a live streaming of video).

5. Also, we were wondering if we need some language exempting military use, similar to 941.31(2)(c): "...does not apply to the transportation, possession, use, or transfer of any weaponized drone by any armed forces or national guard personnel." 941.292 Possession of a weaponized drone. (1) In this section, "drone"

10 means a powered, aerial vehicle that does not carry a human operator, uses
11 aerodynamic forces to provide vehicle lift, and can fly autonomously or be piloted
12 remotely. A drone may be expendable or recoverable.

13 (2) Whoever sells, transports, manufactures, possesses, or operates any
14 weaponized drone is guilty of a Class H felony.



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-2386/1

PJH:kjf:rs

2013 ASSEMBLY BILL 203

May 16, 2013 - Introduced by Representatives AUGUST, KESSLER, CRAIG, C. TAYLOR, BALLWEG, BERCEAU, BORN, CZAJA, HEBL, KESTELL, LOUDENBECK, MURPHY, MURTHA, OHNSTAD, A. OTT, POPE, SANFELIPPO, SHANKLAND, SPIROS, THIESFELDT, TITTL and TRANEL, cosponsored by Senators PETROWSKI, ERPENBACH, RISSER, GROTHMAN, HANSEN, SCHULTZ and L. TAYLOR. Referred to Committee on Government Operations and State Licensing.

- 1 **AN ACT** *to amend* 114.04; and *to create* 175.55, 941.292, 942.10 and 972.113 of
2 the statutes; **relating to:** restricting the use of drones and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill restricts the use of drones. The bill defines a drone as a powered, aerial vehicle that does not carry a human operator, uses aerodynamic vehicle lift, and can fly autonomously or be piloted remotely.

Under the bill, no law enforcement agency may use a drone that is equipped with video or audio recording equipment to collect evidence or information in a criminal investigation without first obtaining a search warrant. The bill allows a law enforcement agency to use a drone without a search warrant if it is necessary to do so for certain emergency purposes, including to locate an escaped prisoner, to aid in a search and rescue mission, or to prevent imminent harm to a person or the imminent destruction of evidence. Under the bill, evidence obtained by a drone in violation of the law is not admissible in a criminal proceeding.

Under the bill, a person who sells, possesses, or uses a weaponized drone is guilty of a Class H felony, and may be fined up to \$10,000, imprisoned for up to six years, or both. The bill prohibits a person, except a law enforcement officer who has a search warrant or is acting for a permissible emergency purpose, from using a drone that is equipped with video or audio recording equipment to photograph, record, or otherwise observe another individual in a place where the individual has a reasonable expectation of privacy. Anyone who does so is guilty of a Class A misdemeanor, and may be fined up to \$10,000, imprisoned for up to nine months, or both.

ASSEMBLY BILL 203

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 114.04 of the statutes is amended to read:

2 **114.04 Flying and landing, limitations.** Flight Subject to s. 175.55, and
3 except as provided in s. 942.10, flight of or in aircraft or spacecraft over the lands and
4 waters of this state is lawful, unless at such a low altitude as to interfere with the
5 then existing use to which the land or water, or the space over the land or water, is
6 put by the owner, or unless so conducted as to be imminently dangerous or damaging
7 to persons or property lawfully on the land or water beneath. The landing of an
8 aircraft or spacecraft on the lands or waters of another, without the person's consent,
9 is unlawful, except in the case of a forced landing. For damages caused by a forced
10 landing, however, the owner or lessee of the aircraft or spacecraft or the aeronaut or
11 astronaut shall be liable, as provided in s. 114.05.

12 **SECTION 2.** 175.55 of the statutes is created to read:

13 **175.55 Use of drones restricted.** (1) In this section:

14 (a) "Drone" means a powered, aerial vehicle that carries or is equipped with a
15 recording device, as defined in s. 943.49 (1) (c), that does not carry a human operator,
16 uses aerodynamic forces to provide vehicle lift, and can fly autonomously or be
17 piloted remotely. A drone may be expendable or recoverable.

18 (b) "Wisconsin law enforcement agency" has the meaning given in s. 165.77 (1)

19 (c) and includes the department of justice and a tribal law enforcement agency.

new def.

ASSEMBLY BILL 203

in a public place or

1 (2) No Wisconsin law enforcement agency may use a drone to gather evidence
2 or other information in a criminal investigation without first obtaining a search
3 warrant under s. 968.12. This subsection does not apply to the use of a drone to assist
4 in an active search and rescue operation, to locate an escaped prisoner, or if a law
5 enforcement officer has reasonable suspicion to believe that the use of a drone is
6 necessary to prevent imminent danger to an individual or to prevent imminent
7 destruction of evidence.

8 **SECTION 3.** 941.292 of the statutes is created to read:

9 **941.292 Possession of a weaponized drone.** (1) In this section, "drone"
10 means a powered, aerial vehicle that does not carry a human operator, uses
11 aerodynamic forces to provide vehicle lift, and can fly autonomously or be piloted
12 remotely. A drone may be expendable or recoverable.

13 (2) Whoever sells, transports, manufactures, possesses, or operates any
14 weaponized drone is guilty of a Class H felony. *mins*

15 **SECTION 4.** 942.10 of the statutes is created to read:

16 **942.10 Use of a drone.** Whoever uses a drone, as defined in s. 175.55 (1) (a),
17 to photograph, record, or otherwise observe another individual in a place *or location* where the
18 individual has a reasonable expectation of privacy is guilty of Class A misdemeanor.
19 This section does not apply to a law enforcement officer authorized to use a drone
20 pursuant to s. 175.55 (2).

with the intent

21 **SECTION 5.** 972.113 of the statutes is created to read:

22 **972.113 Evidence obtained by a drone.** Evidence or information obtained
23 or collected in violation of s. 175.55 is not admissible in evidence in any criminal
24 proceeding.

25

(END)



State of Wisconsin
2013 - 2014 LEGISLATURE

SOON



LRBa0813/1

PJH:.....

jld

ASSEMBLY AMENDMENT ,
TO ASSEMBLY BILL 203

9-16-13

UPS-
PRINT
w/LINE
numbers
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At the locations indicated, amend the bill as follows:

1. Page 2, line 15: delete "recording device, as defined in s. 943.49 (1) (c)" and substitute "device that, in analog, digital, or other form, gathers, records, or transmits a sound or image".

2. Page 3, line 3: after "use of a drone" insert "in a public place or".

3. Page 3, line 13: delete "sells, transports, manufactures, possesses, or".

4. Page 3, line 14: after "felony." insert "This subsection does not apply to a member of the U.S. armed forces or national guard acting in his or her official capacity."

5. Page 3, line 16: after "175.55 (1) (a)," insert "with the intent".

6. Page 3, line 17: after "place" insert "or location".

(END)